

ENVIRONMENTAL HEALTH SERVICES DEPARTMENT

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RESOURCE MANAGEMENT AGENCY

DAVID PRICE III, RMA DIRECTOR

Animal Control Department
Community and Economic Development Department
Engineering and Survey Services Department
Environmental Health Services Department
Planning Department
Roads Department



BEFORE THE

KERN COUNTY ENVIRONMENTAL HEALTH SERVICES DEPARTMENT

In the Matter of:

Envirocycle Inc.
21992 Highway 33
McKittrick, CA 93251

TO: John Webb
801 18th Street
Bakersfield, CA 93301

SWIS No.: 15-AA-0304

) NOTICE AND ORDER
) No. 147-08-01

) DATE ISSUED:

) September 2, 2008

) PUBLIC RESOURCES
) CODE SECTIONS:
) 45000 et seq.

BACKGROUND:

The Kern County Environmental Health Services Department acting as the Local Enforcement Agency (LEA) on behalf of the State of California issued Notice and Order Number 147-06-01 to Envirocycle, Inc. on December 13, 2006.

This determination is based upon the accumulation of significant quantities (approximately 250,000 tons) of petroleum-contaminated soil that have been stored on site in excess of one year and the on-site disposal of significant volumes (approximately 26,903,184 gallons) of liquid. The Notice and Order issued on December 13, 2006 ordered five actions. Those actions include, in summary:

1. Cease and desist receipt of contaminated soils and liquids at the facility.
2. Remove all contaminated soil and liquids from the site by December 13, 2007.
3. Provide to the LEA process specifications defining the character and quantity of soil needed to manufacture a product at the Envirocycle facility.
4. Abide by the cease and desist portion of the order until Envirocycle removes excess material stored at the site, or, submits a completed Standardized Contaminated Soil Solid Waste Facilities permit to the LEA.
5. Envirocycle shall submit to the LEA monthly reports describing manufacturing at the facility for each month and the locations to where their products are removed.

In early 2008, Envirocycle approached the Kern County Planning Department and the LEA to propose a plan for removing excess material at the site. A series of meetings were held to develop a work plan that allows specific operations that will operate within compliance of state law and require the reduction in petroleum contaminated soils and the proper storage and testing of waste liquids.

LEA DETERMINATIONS:

1. The LEA and Envirocycle agree that reduction of material at the Envirocycle facility is a common goal.
2. The LEA will allow operations at the Envirocycle facility provided specific terms and conditions are met.
3. This Notice and Order is subsequent to, and replaces the orders (conditions) of, Notice and Order Number 147-06-01 issued to Envirocycle, Inc. on December 13, 2006.
4. This Notice and Order will remain in effect until all the conditions are met and the facility is in complete compliance with state law.
5. The LEA will suspend the administration of penalties of \$1,250/month if the conditions are met in full while operating under this Notice and Order

PURSUANT TO PUBLIC RESOURCES CODE SECTION 45000, ET SEQ., YOU ARE ORDERED TO:

1. By September 22, 2008, Envirocycle shall submit to the LEA a detailed written survey, certified by an independent licensed civil engineer, documenting the volumes of materials at the Envirocycle facility as of that date. This survey shall be completed again by September 1, 2009 and annually thereafter.

Envirocycle shall remove from the site a minimum of 1,000 tons of solid material, per week until such time as a maximum of 100,000 tons of solid material remains on site; this shall be accomplished by no later than December 1, 2010. Thereafter, a maximum amount of 100,000 tons of solid material may be located on the site at any one time, unless otherwise authorized by the LEA.

2. All materials received on site shall be processed or removed within one year from the date of acceptance.
3. All existing surface impoundment sumps shall be excavated and properly abandoned, to the satisfaction of the LEA, by January 24, 2009.
4. No liquids are to be deposited onto the ground except for reasonable dust suppression as required by the San Joaquin Valley Air Pollution Control District protocols.
5. No free liquids are to stand on the ground nor is the ground or soil on the ground allowed to be saturated with liquid.

6. No liquids are to be disposed at the site.
7. All liquids and semi-liquids received at the facility shall be stored in liquid-tight, LEA-approved, aboveground storage tanks. The method of transfer from off-loading trucks, including the potential use of any intermediate aboveground holding structures, shall be approved by the LEA.
8. All mixing of liquid and semi-liquids with solid materials shall take place on an impermeable surface approved by the LEA unless all such mixing will be conducted solely within a pug mill or other equipment designed for that purpose.
9. Envirocycle shall maintain weight and content analyses logs for all materials leaving the site. On a quarterly basis, Envirocycle shall furnish the LEA with an electronic summary of operations showing amounts, characterization and sources of all materials received at the facility and the amounts, characterization and specific destination of all material exported from the site. The format and content of the summary information shall be as required by the LEA and subject to change at the discretion of the LEA. Quarterly reporting shall be submitted commencing on December 31, 2008 and shall thereafter be submitted on or before: March 31, June 30, September 30 and December 31 of each year.
10. Envirocycle shall keep a weight and content analysis log for each load received at the facility. The logs shall track the incoming amount, characterization and source (including business name, address, phone number and contact name of a responsible party) of all incoming waste streams; this log shall be transcribed to an electronic format by Envirocycle and made available to the LEA. Incoming loads shall be randomly sampled and tested by an independent lab under a sampling program approved by the LEA; the sampling protocol is to have statistical validity. The sampling and analyses shall include tests appropriate for eliminating hazardous wastes from the facility. The results of all such testing shall be kept on site and made available to any responsible agency, with jurisdiction, upon request. A summary of the resulting tests shall be transmitted in electronic format to the LEA quarterly. Quarterly reporting shall be submitted commencing on December 31, 2008 and shall thereafter be submitted on or before: March 31, June 30, September 30 and December 31 of each year. If results of testing suggest additional protocols are necessary for receiving materials on site, those protocols shall be reviewed and approved by the LEA prior to implementation. Envirocycle shall immediately contact the LEA if results of any sample tested shows materials in hazardous concentrations have or may have been received at the facility.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 45000, 45011, 45023, AND 48023.5, if the above actions are not completed or requirements complied with by the specified dates, the Kern County Environmental Health Services Department may:


1. Petition the Superior Court for injunctive relief to enforce this Order and to seek civil penalties not to exceed ten thousand dollars (\$10,000) for each day of violation occurring after the specified date.
2. Seek administrative civil penalties up to five thousand dollars (\$5,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues,

not to exceed fifteen thousand dollars (\$15,000) per violation in any one calendar year, against any person who intentionally or negligently violates any provision of this chapter or any applicable solid waste statute or regulation.

3. Contract for corrective action(s) and be reimbursed for the amount the Department expends, including but not limited to, a reasonable amount for contract administration and an amount equal to the interest that would have been earned on the expended funds.
4. Request the California Integrated Waste Management Board to expend available funds to perform any cleanup, abatement or remedial work needed to protect public health and safety or the environment pursuant to Public Resources Code, Section 48020. If the California Integrated Waste Management Board expends funds to perform any cleanup, abatement, or remedial work, the California Integrated Waste Management Board may seek repayment from responsible parties pursuant to Public Resources Code, Section 48020, et seq. Moreover, funds so expended by the California Integrated Waste Management Board constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to Public Resources Code, Section 48023.5.

Envirocycle, Inc., has the right to request a hearing to appeal this Notice and Order to the Hearing Panel, as stipulated by Public Resources Code, Section 44307.

DATED: 9/2/08


Matthew Constantine, Director
ENVIRONMENTAL HEALTH SERVICES
DEPARTMENT